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PATENT
Customer No. 22,852
Attorney Docket No. 3804.0114-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jacques MALLET *et al.*

Serial No.: 09/578,453

Filed: May 26, 2000

For: PHARMACEUTICAL
COMPOSITIONS AND
UTILIZATION THEREOF
PARTICULARLY FOR THE
TREATMENT OF
NEURODEGENERATIVE
DISORDERS

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) Group Art Unit: 1632
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) Examiner: R. Shukla
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Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

**PETITION FOR WITHDRAWAL OF
RESTRICTION REQUIREMENT**

In a restriction requirement mailed October 2, 2001, the Office required restriction under 35 U.S.C. § 121 between the following groups:

Group I: Claims 16-22, 25, and 26, allegedly drawn to a recombinant virus comprising a nucleic acid encoding a mutated form of p53 and its use in a method for inhibiting toxicity in cultured cells, classified in class 424, subclass 93.2;

Group II: Claims 16-20, 22, 25, and 26, allegedly drawn to a recombinant virus comprising a p53 binding site and its use in a method for

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inhibiting toxicity in cultured cells, classified in class 424, subclass 93.2;

Group III: Claims 16-22 and 23-26, allegedly drawn to a recombinant virus comprising a nucleic acid encoding an antisense RNA that inhibits the expression of p53 and its use in a method for inhibiting toxicity in cultured cells, classified in class 424, subclass 93.2; and

Group IV: Claims 27-31, allegedly drawn to a method for identifying compounds that inhibit p53 activity, classified in class 435, subclass 6.

In a Response filed November 2, 2001, Applicants timely traversed the restriction requirement, and provisionally elected to prosecute Group I, claims 16-22, 25, and 26 allegedly drawn to a recombinant virus comprising a nucleic acid encoding a mutated form of p53 and its use in a method for inhibiting toxicity in cultured cells. In an Office Action mailed April 11, 2002, the Office acknowledged the timely traversal of the restriction requirement. The Office, however, maintained the restriction requirement, made it final, and withdrew non-elected claims 23, 24, and 27-31 from further consideration. The Office also objected to claims 16-22, 25, and 26 as being directed, in part, to non-elected subject matter.

Applicants petition the Commissioner to review the restriction requirement as applied to Groups I, II, and III. The petition fee of \$130 is enclosed. For the reasons provided below, Applicants respectfully request that this Petition be granted and the restriction requirement be withdrawn. The pending claims that were subject to the restriction requirement are provided in the attached Appendix.

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